



DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND  
WASHINGTON, DC 20362-5101

IN REPLY REFER TO

NAVSEAINST 8023.2C CH-1  
OPR 06T11  
13 OCT-1988

NAVSEA INSTRUCTION 8023.2C CHANGE TRANSMITTAL 1

From: Commander, Naval Sea Systems Command

Subj: SHIPMENT OF EXPLOSIVE MATERIAL AND OTHER DANGEROUS ARTICLES  
THROUGH U.S. NAVY PORT FACILITIES

1. Action. Make the following pen and ink changes:
  - a. Page 4. Paragraph 8a, 3rd line; change words "paragraphs 5a or 5d" to read "paragraphs 5c or 5f."
  - b. Page 1. Under "In Reply Refer to" delete 66T and insert 06T.
  - c. Pages 1 and 3. In paragraphs 1a, 6b, 6c and 7 delete "code 66T" and insert "code 06T".

*R. H. Ailes*

R. H. AILES  
Deputy Commander for  
Weapons & Combat Systems

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DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND  
WASHINGTON, DC 20362-5101

IN REPLY REFER TO  
NAVSEAINST 8023.2C  
OPR 66T  
8 July 1988

NAVSEA INSTRUCTION 8023.2C

From: Commander, Naval Sea Systems Command

Subj: SHIPMENT OF EXPLOSIVE MATERIALS AND OTHER DANGEROUS ARTICLES  
THROUGH U.S. NAVY PORT FACILITIES

Ref: (a) NAVSEAINST 7030.3A  
(b) 49 CFR, Parts 171 - 179, Department of Transportation  
Regulations for the Transportation of Explosives and Other  
Dangerous Articles  
(c) 46 CFR, Part 146.29, Department of Transportation Regulations  
Governing the Transportation of Military Explosives and  
Hazardous Munitions  
(d) OPNAVINST 3128.10C  
(e) NAVSEA OP 5, Ammunition and Explosives Ashore

Encl: (1) Sample Idemnity Agreements

1. Purpose

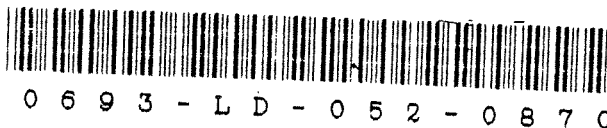
a. To inform responsible transportation personnel that Naval Sea Systems Command (NAVSEA) code 66T is the office of primary responsibility for requests to utilize U. S. Navy port facilities for the transshipment of explosives and other dangerous articles. (\*)

b. In accordance with the policy issued by reference (a), to provide shippers with rules for using U. S. naval port facilities for the shipment of explosive materials and other dangerous articles not owned by the Armed Forces of the United States.

2. Cancellation. NAVSEAINST 8023.2B of 5 June 1984.

3. Background. The primary mission of explosives capable naval port facilities is the handling and shipping of explosive materials and other dangerous articles owned by the Armed Forces of the United States. However, circumstances may arise in which the national interest is served by permitting handling and shipping such materials not owned by the Armed Forces of the United States through a Naval port facility. In most circumstances, shipping of explosives and other dangerous articles through commercial port facilities is either embargoed or is not feasible due to limited availability of commercial port facilities which meet safety criteria.

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#### 4. Definitions

a. Explosive materials and other dangerous articles consist of those items in the following categories:

- (1) Explosives, Class A, B and C (described in reference (b)).
- (2) Military explosives and hazardous munitions, Coast Guard Classes I through XID (described in reference (c)).
- (3) Fertilizer grade ammonium nitrate (described in reference (b)).

b. Defense Security Assistance (DSA). DSA includes Foreign Military Sales (FMS) and the Military Assistance Program (MAP). Foreign Military Sales are made under authority of the Arms Export Control Act to sell defense articles, services, and training to foreign governments. The Military Assistance Program is a grant aid program that is carried out under authority of the Foreign Assistance Act of 1961 as amended, to grant or loan defense articles or services to foreign governments. Both FMS and MAP are U.S. Government to foreign government agreements.

5. Policy. U.S. Naval port facilities may be authorized to handle and ship explosives and other dangerous articles not owned by the Armed Forces of the United States under the following circumstances:

a. There will be no interference with the primary mission of Naval port facilities. (\*)

b. The work and services requested will be performed at no cost to the U.S. Navy

c. When materials to be furnished to foreign countries are covered under an approved DSA program; Note, for purposes of this instruction, all such materials shall be considered to be owned by the foreign countries.

d. When materials owned by foreign governments have been purchased directly from private industry, provided that:

(1) Prior approval has been obtained from the State Department, if required.

(2) Such shipments are not prohibited by law or government regulations.

(3) It has been determined that performance will not place the government in competition with private industry.

e. When materials are owned by private industry provided the conditions set forth in paragraph 5d are complied with.

f. When materials to be shipped are for or are under direct sponsorship of a state or municipal government or an agency or department of the United States Government.

6. Action

a. All shipments of explosive materials and other dangerous articles not owned by the Armed Forces of the United States must receive the prior approval of the Commander, Naval Sea Systems Command. Approval of such shipments will be contingent upon a determination that the best interest of the United States will be served. Strategic, operational, economic, and national security factors will be considered in making this decision. The Deputy Commander for Weapons and Combat Systems (SEA 06) is hereby delegated the authority and responsibility to make the foregoing determination and to grant the required approval.

b. The Director, Ordnance Transportation (SEA 66T) is the point of contact for all requests for approval of such shipments. SEA 66T will coordinate shipment requests with the Fleet Support Division (SEA 664) and NAVSEA Security Division (09B2) and will ensure required safety coordination (SEA 652). SEA 66T will inform Chief of Naval Operations (CNO) (OP 41), in writing, of all such approvals.

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c. SEA 66T will inform CNO (OP 41) of each shipment made in a foreign flag commercial vessel and the cargo lifted.

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d. Shipments to be made in foreign military ships must receive clearance from CNO (OP 009L) to allow berthing of foreign military ships at Naval port facilities. The foreign government will obtain this clearance in accordance with reference (d). This clearance procedure is mandatory; no work will be performed until such clearance is received.

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7. Request for approval. Forward applications for use of Navy port facilities to Commander, Naval Sea Systems Command (SEA 66T) Washington, D. C. 20362 with a copy to the port facility to be used e.g. Commanding Officer, Naval Weapons Station Earle, Colts Neck, NJ 07722 or Commanding Officer, Naval Weapons Station, Concord, CA 94520. The copy to the port facility must include a signed indemnity agreement (enclosure 1). Applications must be made one month prior to the ship estimated arrival date. Any shipment arriving prior to port activity acceptance will be returned to the sender. Include the following with the application:

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a. Complete and detailed identification and description of the explosive material or dangerous articles, including net explosive weight, Coast Guard and Department of Transportation class identification and quantity.

b. Name and address of the manufacturer, or the U. S. Armed Forces point of origin of materials in the shipment.

c. Identification of military or other federal programs involved, if any, including contract, requisition, and Foreign Military Sales (FMS) case numbers, if applicable; and in matters involving shipments of non-DSA (commercial) material, submit copy of the export license.

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d. Name and address of consignor and consignee.

e. For non-DSA shipments, explain why commercial port facilities cannot be used.

8. Conditions Prerequisite to Approval. The following conditions must be met before approval can be granted:

a. An indemnity agreement similar to one of those prescribed in enclosure (1) must be executed, except for cases falling within paragraphs 5a or 5d, prior to receipt, handling or shipping of explosives. The indemnity agreement shall be signed by a duly authorized representative of the agency, company, foreign government or individual (determined to be proper in the circumstances) requesting the work, services or facilities. In special cases, a party may also be required to provide an indemnity bond in the amount to be specified by COMNAVSEASYSKOM, if warranted, as additional security to cover a risk in relationship to the apparent financial responsibility of the party for services, work, or facilities requested.

b. Payment for services for DSA shipments or shipments by U. S. government agency will be made by a reimbursable funding document from the Military Traffic Management Command or from the cognizant government agency and must be received at the port facility prior to starting of work. Services performed for non-DSA customers require an advance deposit equal to the total costs estimated by the facility which will perform the work. The private party's check will be payable to the Treasurer of the United States, and will be credited to the Navy Industrial Fund or to the Working Fund/Security Deposits account under Suspense, Navy appropriation 17X6875.1250, and functional account 98004. (NAVCOMPT Manual paras. 035878-2 and 032102-1 ). Final billing will be the actual cost of supplies and services.

c. The applicant must comply with all applicable requirements of reference (e), the regulations of the Naval port facility involved in the shipment, and any other requirements specified by the commanding officer of the Naval port facility or other Naval facility used.

9. Responsibilities

a. The responsibility for complying with the requirements of paragraphs 7 and 8 will reside in the party making the request for the use of the port facilities.

b. It shall be the responsibility of the stations performing the work to assure that references (a), (b), (c), and (e) are adhered to and that the requirements of paragraphs 7 and 8 are complied with prior to acceptance of material and commencement of any services.

c. Naval handling and shipping activities will, as occasions arise, advise interested shippers or agencies about the conditions and requirements of this instruction.



R. H. AILES  
Deputy Commander for  
Weapons & Combat Systems

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8 July 1988

## SAMPLE INDEMNITY AGREEMENTS

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned \_\_\_\_\_, a corporation  
(name of corporation)  
organized and existing under the laws of the State of \_\_\_\_\_,  
in consideration of permission granted for \_\_\_\_\_ (e.g., the use of the facilities  
and the necessary services to load explosives and other dangerous cargo)  
(description of work)  
at \_\_\_\_\_ and as a condition precedent thereto,  
(location)  
does hereby expressly agree to indemnify and hold harmless the United States  
Government and its agencies and instrumentalities against all suits, actions,  
claims, costs, or demands (including, without limitation, suits, actions,  
claims, costs, or demands for death, bodily injury, and property damage),  
except those caused by the negligence of the U.S. Government or its agencies  
or instrumentalities, to which the United States Government, its agencies, and  
instrumentalities may be subject by reason of damage or injury (including  
death) to the property or person of anyone, whosoever they may be, arising or  
resulting from any and all operations hereafter performed either by the  
\_\_\_\_\_ or by the undersigned, its agents, employees, or sub-  
(naval activity)  
contractors in \_\_\_\_\_  
(description of work)  
or effecting any other work which the undersigned may require at \_\_\_\_\_  
(location)  
during the time that the above described work is performed, or in any other  
way arising therefrom or connected therewith.